

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

MALENA TALLEY, JAMES TALLEY, and
DION TALLEY,

Civil No. 12-2664 (JNE/AJB)

Plaintiffs,

REPORT AND RECOMMENDATION

v.

HENNEPIN COUNTY SERVICES DEPT.,
TOLAD INC., and DUNGARVIN, LLC,

Defendants.

Plaintiffs commenced this action on October 18, 2012, by filing a civil complaint, and an application seeking leave to proceed in forma pauperis, ("IFP"). (Docket Nos. 1 and 2.) The Court previously examined Plaintiffs' submissions, and determined that their complaint was inadequate. Therefore, in an order dated October 30, 2012, (Docket No. 4), the Court directed Plaintiffs to file an amended complaint. The order expressly notified Plaintiffs that if they did not file a new pleading by November 30, 2012, the Court would recommend that this action be dismissed without prejudice pursuant to Fed. R. Civ. P. 41(b).

Plaintiffs subsequently requested an extension of the deadline to amend. (Docket No. 5.) That request was granted by a second order dated November 29, 2012, (Docket No. 6), which extended the deadline for filing an amended complaint to January 30, 2012.

The extended deadline for filing an amended complaint has now expired, and Plaintiffs have not yet complied with the Court's prior orders. Plaintiffs still have not filed a viable pleading, nor have they offered any excuse for their failure to do so. Therefore, the Court will now recommend, in accordance with the initial order entered in this matter,

that this action be dismissed without prejudice pursuant to Fed. R. Civ. P. 41(b). See Henderson v. Renaissance Grand Hotel, 267 Fed.Appx. 496, 497 (8th Cir. 2008) (unpublished opinion) (“[a] district court has discretion to dismiss an action under Rule 41(b) for a plaintiff's failure to prosecute, or to comply with the Federal Rules of Civil Procedure or any court order”); see also Link v. Wabash Railroad Co., 370 U.S. 626, 630-31 (1962) (recognizing that a federal court has the inherent authority to “manage [its] own affairs so as to achieve the orderly and expeditious disposition of cases”).

Having determined that this action should be dismissed, the Court will further recommend that Plaintiffs’ pending IFP application be summarily denied.

Based upon the above, and upon all the records and proceedings herein,

IT IS HEREBY RECOMMENDED that:

1. Plaintiffs’ application to proceed in forma pauperis, (Docket No. 2), be **DENIED**;
and
2. This action be **DISMISSED WITHOUT PREJUDICE**.

Dated: February 12, 2013

s/ Arthur J. Boylan

ARTHUR J. BOYLAN
Chief United States Magistrate Judge

Pursuant to Local Rule 72.2(b), any party may object to this Report and Recommendation by filing with the Clerk of Court, and by serving upon all parties, written objections which specifically identify the portions of the Report to which objections are made and the bases for each objection. This Report and Recommendation does not constitute an order or judgment from the District Court and it is therefore not directly appealable to the Circuit Court of Appeals. Written objections must be filed with the Court before February 26, 2013.